MONTANA LEGISLATIVE HISTORY

Chapter 161 19 2001

Bill H 443 S _____ Original bill & history ✓ C

H. Committee on State Admin.		S. Committee on State Admin.	
Hearing Date(s) _____	___C	Hearing Date(s) _____	___C
2/6	✓ C	3/7	✓ C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out 2/8	✓ C	3/7	✓

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

	Returned to House with Amendments		
3/26	Revised Fiscal Note Requested		
3/27	Revised Fiscal Note Received		
3/28	Revised Fiscal Note Printed		
4/12	2nd Reading Senate Amendments Concurred	97	0
4/13	3rd Reading Passed as Amended by Senate	85	15
4/13	Sent to Enrolling		
4/16	Returned from Enrolling		
4/19	Signed by Speaker		
4/21	Signed by President		
4/21	Transmitted to Governor		
5/01	Signed by Governor		
5/01	Chapter Number Assigned		
	Chapter Number 513		
	Effective Date: 10/01/2001 - All Sections		

HB 443 Introduced by Clancy *LC1067 Drafter: Niss*

Revise Notary Laws

By Request of Secretary of State

1/30	Introduced		
1/30	Referred to State Administration		
1/30	Fiscal Note Requested		
2/06	Hearing		
2/07	Fiscal Note Received		
2/09	Fiscal Note Printed		
2/09	Committee Executive Action--Bill Passed as Amended	16	2
2/09	Committee Report--Bill Passed as Amended		
2/14	2nd Reading Passed	93	7
2/15	3rd Reading Passed	92	8
	Transmitted to Senate		
2/21	Referred to State Administration		
3/07	Hearing		
3/07	Committee Executive Action--Bill Concurred	8	0
3/07	Committee Report--Bill Concurred		
3/10	2nd Reading Concurred on Voice Vote	39	0
3/12	3rd Reading Concurred	49	0
	Returned to House		
3/13	Sent to Enrolling		
3/13	Returned from Enrolling		
3/14	Signed by Speaker		
3/19	Signed by President		
3/19	Transmitted to Governor		
3/28	Signed by Governor		
3/29	Chapter Number Assigned		
	Chapter Number 161		
	Effective Date: 10/01/2001 - All Sections		

HB 444 Introduced by Somerville, et al. *LC1104 Drafter: Everts*

Reauthorize Natural Resource Damage Program

By Request of Attorney General & Governor

12/05	Fiscal Note Needed

2001 Montana Legislature

About Bill -- Links

HOUSE BILL NO. 443

INTRODUCED BY G. CLANCY

AN ACT GENERALLY REVISING STATUTES APPLYING TO NOTARIES PUBLIC; CLARIFYING DURATIONAL RESIDENCY REQUIREMENTS FOR NOTARIES PUBLIC; PROHIBITING A PERSON FROM HOLDING MORE THAN ONE COMMISSION AS A MONTANA NOTARY PUBLIC; REQUIRING A COUNTY ATTORNEY TO PROSECUTE VIOLATIONS OF LAWS APPLYING TO NOTARIES PUBLIC; REVISING THE STATUTE GOVERNING AN APPLICATION TO BECOME A NOTARY PUBLIC; ALLOWING THE SECRETARY OF STATE TO CHARGE FEES FOR CHANGES MADE BY THE SECRETARY OF STATE TO THE COMMISSIONS OF NOTARIES PUBLIC; REQUIRING CERTAIN INFORMATION TO BE FILED BY A NOTARY PUBLIC WITH THE SECRETARY OF STATE; CLARIFYING STATUTES REGARDING CHANGES TO A NOTARY PUBLIC'S COMMISSION; APPLYING CONDITIONS AND CLARIFYING ACTIONS PERTAINING TO CERTAIN NOTARIAL ACTS; PROHIBITING A NOTARY PUBLIC FROM ACTING IN CERTAIN CASES IN WHICH THE NOTARY MAY HAVE A CONFLICT OF INTEREST; CLARIFYING THE STATUTE GOVERNING FEES CHARGED BY NOTARIES PUBLIC; AUTHORIZING A NOTARY PUBLIC TO CHARGE FOR CERTAIN EXPENSES; PROVIDING A PENALTY; AND AMENDING SECTIONS 1-5-402, 1-5-403, 1-5-404, 1-5-405, 1-5-408, 1-5-409, 1-5-416, 1-5-417, 1-5-418, 1-5-603, 1-5-609, AND 1-5-610, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 1-5-402, MCA, is amended to read:

"1-5-402. Qualifications -- residence. A person appointed as notary public may not, at the time of appointment, be a convicted felon. Each person appointed as a notary public must be a citizen of the United States and of the state resident of Montana for at least 1 year immediately preceding appointment, and must continue to reside within the state of Montana. Removal from the state or conviction of a felony vacates the office and is equivalent to resignation."

Section 2. Section 1-5-403, MCA, is amended to read:

"1-5-403. Term of office -- limit on commissions. (1) The term of office of a notary public is 4 years from ~~and after~~ the date of commissioning.

(2) A person may not have more than one Montana notary public commission in effect at one time."

Section 3. Section 1-5-404, MCA, is amended to read:

"1-5-404. ~~Revocation~~ Penalties -- revocation of commission -- prosecution for violation of law. (1) Upon 10 days' notice, the secretary of state may revoke the commission of ~~any~~ a notary public for just cause.

(2) The county attorney of a county in which a violation of this chapter or another law applicable to notaries public or notarial acts occurs shall prosecute the violation."

Section 4. Section 1-5-405, MCA, is amended to read:

"1-5-405. Bond and commission -- dates -- fees and documents. (1) Each notary public shall submit an application, a signed oath of office, and ~~give~~ an official bond in the ~~sum~~ amount of ~~$5,000~~ $10,000 for each 4-year term of office. The application and bond must be approved by the secretary of state. Upon the approval of the application and the bond, the payment of fees, and the filing in the office of the secretary of state of the official oath of the notary public, the secretary of state may issue a commission.

(2) The effective date of the surety bond and the notary commission must be the same.

(3) All required fees and required and properly completed documents must be submitted to the office of the secretary of state within 30 days before or by the effective date of the surety bond."

Section 5. Section 1-5-408, MCA, is amended to read:

"1-5-408. Fees for filing or amending commission and issuing certificates. The secretary of state shall set by rule the fees for filing or issuing, in the manner provided for in 1-5-407, certificates. The secretary may charge a fee for changes made in the commission of a notary public, during the term of that commission, regarding the notary's name, residential address, business address, or residential or business telephone number. The fees must be commensurate with costs. The secretary of state shall use application forms soliciting the information required by this part. The county clerk of any county in this state ~~shall~~ must receive a fee, as provided in 7-4-2631, for filing a copy of the commission and certifying to the official character."

Section 6. Section 1-5-409, MCA, is amended to read:

"1-5-409. Information to be filed -- amendments to commission. (1) A person appointed as a

notary public shall file ~~his address~~ the person's business, if any, and residential addresses and telephone ~~number~~ numbers with the office of the secretary of state. If the notary public changes ~~his~~ the notary's address or telephone number during ~~his~~ the notary's term of commission, ~~he~~ the notary shall notify the office of the ~~change~~ secretary of state in writing and shall sign the writing using the same signature that is used for notarial acts.

(2) A notary public wishing to change the notary's name during the notary's term of commission shall file with the secretary of state a rider or other document from the notary's surety company showing the change of name. The notary public shall also file with the secretary of state a written example of the notary's new official signature."

Section 7. Section 1-5-416, MCA, is amended to read:

"1-5-416. Powers and duties. (1) A notary public shall:

(a) subject to subsection (2), take the acknowledgment or proof of any power of attorney, mortgage, deed, grant, transfer, or other instrument executed by any person and give a certificate of the proof or acknowledgment, endorsed on or attached to the instrument;

(b) take depositions and affidavits, if the notary is knowledgeable of the applicable legal requirements, and administer oaths and affirmations in all matters incident to the duties of the notary public's office or to be used before any court, judge, officer, or board in this state;

(c) whenever requested and upon payment of the required fees, make and give a certified copy of any record kept or that originated in the notary public's ~~office~~ place of employment;

(d) provide and keep an official crimper-type or ink stamp seal, upon which must be engraved the name of the state of Montana and the words "Notarial Seal", with the ~~surname~~ name of the notary public ~~and at least the initials of the notary public's given name~~ exactly as that name appears on the notary's certificate of commission issued by the secretary of state;

(e) authenticate with the notary public's official seal, and the notary's original signature as it appears on the notary's certificate of commission, all official acts. Whenever the notary public signs officially as a notary public, the notary public shall add to the signature the words "Notary Public for the State of Montana, residing at.... (stating the name of the notary public's post office)" and shall endorse upon the instrument the date, showing the month, day, and four-digit year, of the expiration of the notary public's commission.

(f) on every document on which the notary's seal of office is used, type, stamp, or legibly print the notary's name, as shown on the notary's certificate of commission, after or below the original signature of the notary.

(2) ~~The~~ A notary public may not:

(a) notarize the notary's own signature;

(b) notarize a document in which the notary is individually named or has an interest from which the notary will directly benefit by a transaction involving the document; or

(c) certify a document issued by a public entity, such as a birth, death, or marriage certificate, unless the notary is employed by the entity issuing or holding the original version of that document."

Section 8. Section 1-5-417, MCA, is amended to read:

"1-5-417. Authority of notaries who are stockholders, officers, or employees of banks or other corporations. ~~It shall be lawful for any~~ (1) Except as provided in this section, a notary public who is a stockholder, director, officer, or employee of a bank or other corporation ~~to~~ may:

(a) take the acknowledgment of ~~any~~ a party to ~~any~~ a written instrument executed to or by ~~such~~ that bank or corporation~~, to~~;

(b) administer an oath to any other stockholder, director, officer, employee, or agent of ~~such~~ that bank or corporation~~, or to~~; or

(c) protest for nonacceptance or nonpayment bills of exchange, drafts, checks, notes, and other negotiable instruments ~~which~~ that may be owned or held for collection by ~~such~~ that bank or other corporation~~; provided, it shall be unlawful for any~~.

(2) A notary public ~~to~~ who is a stockholder, director, officer, or employee of a bank or other corporation and is individually named in an instrument or signs an instrument as a representative of the bank or other corporation may not:

(a) take the acknowledgment of ~~an~~ that instrument by or to ~~a~~ that bank or other corporation ~~of which he is a stockholder, director, officer, or employee where such notary is a party individually to such instrument or signs the instrument as a representative of such bank or other corporation or to~~; or

(b) protest ~~any~~ a negotiable instrument owned or held for collection by ~~such~~ that bank or other corporation ~~where such notary is individually a party to such instrument~~.

(3) A notary public who violates this section is guilty of a misdemeanor and upon conviction must be punished as provided by law."

Section 9. Section 1-5-418, MCA, is amended to read:

"1-5-418. ~~Fees~~ Maximum fees of notaries. ~~Fees~~ Maximum fees of notaries public are as follows:

(1) for drawing an affidavit, deposition, or other paper for which ~~provision is not herein made~~ a maximum fee is not otherwise specified, ~~$3.50~~ $3.50 ~~per~~ a page;

(2) for taking an acknowledgment or proof of a deed or other instrument, ~~to include~~ including the seal and the writing of the certificate, for the first signature, ~~$1~~ $5;

(3) for each additional signature of the same person as referred to in subsection (1), ~~50 cents~~ $1;

(4) for administering an oath or affirmation, ~~$1~~ $5;

(5) for certifying an affidavit, with or without seal, including oath, ~~$1~~ $5; and

(6) for mileage or other charge to travel to or from or to and from the place of the notarial act, the amount provided by law for state employees when using the same mode of travel and traveling on state business."

Section 10. Section 1-5-603, MCA, is amended to read:

"1-5-603. Notarial acts. (1) In taking an acknowledgment, the notarial officer shall determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the acknowledgment is the person whose true signature is on the instrument.

(2) In taking a verification upon oath or affirmation, the notarial officer shall determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the verification is the person whose true signature is on the statement verified.

(3) In witnessing or attesting a signature, the notarial officer shall determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person appearing before the officer and named in the instrument.

(4) In certifying or attesting a copy of a document or other item, the notarial officer shall determine that the proffered copy is a full, true, and accurate transcription or reproduction of that which was copied.

(5) (a) In making or noting a protest of a negotiable instrument, the notarial officer shall identify the instrument and certify either:

(i) that due presentment has been made; or

(ii) the reason why it is excused and that the instrument has been dishonored by nonacceptance or nonpayment.

(b) The protest may also certify that notice of dishonor has been given to all parties or to specified parties.

(6) A notarial officer has satisfactory evidence that a person is the person whose true signature is on a document if that person is:

(a) personally known to the notarial officer;

(b) identified upon the oath or affirmation of a credible witness personally known to the notarial officer; or

(c) identified on the basis of a current identification document or documents that show a photograph and signature of the person."

Section 11. Section 1-5-609, MCA, is amended to read:

"1-5-609. Certificate of notarial acts. (1) A notarial act must be evidenced by a certificate signed and dated by a notarial officer. The certificate must include identification of the jurisdiction in which the notarial act is performed, the date on which the notarial act is performed, the type of notarial act being performed, and the title of the office of the notarial officer and must include the official seal of office. If the officer is a Montana notary public, the certificate must also indicate the place of the notarial officer's residence and the date of expiration, ~~if any,~~ of the commission of office, but omission of that information that place or date may subsequently be corrected. If the officer is a commissioned officer on active duty in the military service of the United States, it must also include the officer's rank.

(2) A certificate of a notarial act is sufficient if it meets the requirements of subsection (1) and it:

(a) is in the short form set forth in 1-5-610;

(b) is in a form otherwise prescribed by the law of this state;

(c) is in a form prescribed by the laws or regulations applicable in the place in which the notarial act was performed; or

(d) sets forth the actions of the notarial officer and those are sufficient to meet the requirements of the designated notarial act.

(3) By executing a certificate of a notarial act, the notarial officer certifies that the officer has made the determinations required by 1-5-603."

Section 12. Section 1-5-610, MCA, is amended to read:

"1-5-610. Short forms. The following short-form certificates of notarial acts are sufficient for the purposes indicated if they are completed with the information required by 1-5-416 and 1-5-609(1):

(1) For an acknowledgment in an individual capacity:

State of _____

(County) of _____

This instrument was acknowledged before me on (date) by (name(s) of person(s))

_____

_____

(Signature of notarial officer)

(Seal, if any)

_____

Title (and Rank)

_____

(Residing at)

[My commission expires: _____]

(2) For an acknowledgment in a representative capacity:

State of_____

(County) of_____

This instrument was acknowledged before me on (date) by (name(s) of person(s)) as (type of authority, e.g., officer, trustee, etc.) of (name of party on behalf of whom instrument was executed).

_____

(Signature of notarial officer)

(Seal, if any)

_____

Title (and Rank)

_____

(Residing at)

[My commission expires: _____]

(3) For a verification upon oath or affirmation:

State of_____

(County) of_____

Signed and sworn to (or affirmed) before me on (date) by (name(s) of person(s) making statement)_____

_____

(Signature of notarial officer)

(Seal, if any)

_____

Title (and Rank)

_____

(Residing at)

[My commission expires: _____]

(4) For witnessing or attesting a signature:

State of_____

(County) of_____

Signed or attested before me on (date) by (name(s) of person (s))._____

_____

(Signature of notarial officer)

(Seal, if any)

_____

Title (and Rank)

_____

(Residing at)

[My commission expires: _____]

(5) For attestation of a copy of a document:

State of_____

(County) of_____

I certify that this is a true and correct copy of a document in the possession of_____.

Dated _____

_____

(Signature of notarial officer)

(Seal, if any)

Title (and Rank)

(Residing at)

[My commission expires: _____]"

Section 13. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before October 1, 2001.

- END -

Latest Version of HB 443 *(HB0443.ENR)*
Processed for the Web on March 13, 2001 (1:01PM)

New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted. See the status of this bill for the bill's primary sponsor.

Status of this Bill | 2001 Legislature | Leg. Branch Home
This bill in WP 5.1 | All versions of all bills in WP 5.1
Authorized print version w/line numbers (PDF format)

Prepared by Montana Legislative Services

(406)444-3064

HEARING ON HB 443

Sponsor: **REPRESENTATIVE GILDA CLANCY, HD 51, HELENA**

Proponents: **Janice Doggett, Office of Secretary of State**
Russell Gowen, Montana Land Title Association
Belinda Fargher, Ambassador Notary of the State of Montana

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 0.0}

REPRESENTATIVE GILDA CLANCY, HD 51, HELENA said this bill would allow the Secretary of State's office to charge a maintenance fee for changes to current notary commissions. The bill also increases the fees that notaries can charge for services from $1.00 to $5.00. Fees for affidavits increase from $3.50 to $7.50 per page and for additional signatures the fee will increase from .50 to $1.00. These increases are based on the current cost of doing business. This bill clarifies that notaries can charge for mileage and establishes a maximum fee, which is not higher than the state rate. She submitted an amendment. **EXHIBIT(sth30a01)**

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 4.3}

Janice Doggett, Office of Secretary of State, stated this was a clean up bill for notaries and briefly discussed the amendment and it's purpose.

Russell Gowen, Montana Land Title Association, submitted testimony. **EXHIBIT(sth30a02)**

Belinda Fargher, Ambassador Notary of the State of Montana, commented she would like to express her support to the bill. A number of the clean up items in the bill are very important, especially the section dealing with the bond. The bond is protection for the public not the notary. She did a survey four years ago of 1,200 notaries out of the 18,000 in Montana and 89% of those notaries did not know about the laws, rules and regulations over the notaries. The current initiatives to clean up the house bill will make the rules much easier for notaries to interpret.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 11.6}

REPRESENTATIVE HEDGES asked how often in the past 20 years has a notary needed to forfeit bond because of an infraction of the rules. **Janice Doggett** replied there has been five in the past two years.

REPRESENTATIVE LEHMAN asked why the supreme court eliminated the requirement of being a resident of the united states to be a notary. **Janice Doggett** replied the supreme court has said there are some duties or obligations that require residency, however, they did not feel that notarizing a document rose to a level requiring state residency.

REPRESENTATIVE DELL asked why the fees for notaries need to increase so significantly. **Janice Doggett** said the fees have not been increased in quite some time so the significant change is based on the length of time since the last change and also relates to the cost of doing business. **REPRESENTATIVE DELL** said he has only one time had to pay for a notary. It is usually a benefit of your bank and feels it is very rare to see a charge for a notary.

REPRESENTATIVE JENT commented on the maximum fee for a deposition or affidavit of $7.50 a page. He clarified that a court reporter could now charge $7.50 per page for a deposition. **Janice Doggett** replied that was true unless there is a contract with the court reporter stating otherwise. **REPRESENTATIVE JENT** said charging $7.50 a page for a deposition is outrageous. Currently for a 100 page deposition at $3.50 a page they pay $350.00 and if the cost increases to $7.50 a page they would be paying $750.00 for a 100 page deposition. He then asked if any court reporters had any input into the drafting of this bill. **Janice Doggett** replied it was her understanding they were not completely involved in the drafting of this bill.

REPRESENTATIVE RIPLEY asked what the cost is to be bonded for $10,000.00. **Lisa Thompson, Notary Compliance Officer**, replied the current cost for a $5,000.00 bond is $40.00 - $50.00 for a four year term. After speaking to insurance companies her understanding was for a $10,000.00 bond, the amount would increase $10.00 - $15.00 per four year term.

REPRESENTATIVE MASOLO stated she also had concerns on the cost increase and asked if an amendment could be done to take out section 9 of the bill. **REPRESENTATIVE CLANCY** replied she would like to visit with the Secretary of State's office about the section and get back to her.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 23.1}

REPRESENTATIVE CLANCY said she would invite the committee to call and speak with **Janice Doggett of the Secretary of State's office** if they have any other questions before executive action.

HEARING ON SB 120

Sponsor: **SENATOR JON TESTER, SD 45, BIG SANDY**

Proponents: **John Northey, Legal Council, Legislative Audit Division**

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 26}

SENATOR JON TESTER, SD 45, BIG SANDY, stated the majority of the bill deals with internal service accounts verses the enterprise fund. During a legislative audit they discovered state agencies were putting monies from surplus properties into the enterprise fund. The code said the surplus property needed to be deposited into the internal service fund, which is the wrong place for it to go. This bill changes the code so it will accurately reflect what the state agencies are doing and accurately reflect this is the way it needs to be done to be done right.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 27.3}

John Northey, Legal Counsel, Legislative Audit Division, said there is a general provision in state law that the state financial records should be accounted for under generally accepted accounting principals, which would require these funds be placed into an internal service fund. As the name applies,

EXHIBIT 1
DATE 2/6/01
HB 443

Amendments to House Bill No. 443
1st Reading Copy

Requested by Representative Gilda Clancy

For the House State Administration Committee

Prepared by David Niss
February 6, 2001 (7:34AM)

1. Page 7, following line 22.
Page 8, following lines 3, 14, and 24
Page 9, following line 6
Insert: "_____
(Residing at)"

- END -

EXHIBIT 2
DATE 2/6/01
HB 443

MEMORANDUM

Testimony on HB 443

Sponsor Representative Gilda Clancy

The United State Supreme Court held that states cannot require notaries to be citizens of the United States. This is clarified in the first section of this bill. Section two clarifies that a person may not have more than one Montana notary public commission at one time. Section three provides that the county attorney may prosecute a violation of a notary law by a notary. Section 4 increases the notorarial bond from $5,000.00 to $10,000.00 per four tear term to protect the public; clarifies that the surety bond and the notary commission must be the same and clarifies that all documents are to be completed and submitted to the SOS office within 30 days of the effective date of the surety bond. Section 5 allows the SOS to charge a fee for amending a commission. Section 6 requires a notary to file his/her business as well as residential address with his/her signature; if a notary changes his/her name they shall file evidence of notification of the notary's surety company with the SOS and file an example of the change of name. Section 7 clarifies that notaries are not obligated to take depositions if they are not knowledgeable of the applicable legal requirements. Section 7 prohibits a notary from having an interest in the transaction from which the notary could directly benefit by the transaction.

This bill would allow the SOS office to charge a maintance fee for changes to current notary commissions. This bill increases the fees that notaries can charge for services from $1.00 to $5.00. Fees for affidavits are increased from $3.50-$7.50 per page. For additional signatures, the fee is increased from .50 to $1.00. These increases are based on the current cost of doing business. This bill clarifies that notaries may charge mileage and establishes a maximum fee, which may be not higher than the state rate. At the request of the clerks and recorders, this bill clarifies that the short form examples (used by attorneys etc,) still require commissioned notaries to provide all of the information set forth in current law (amending Section 1-5-610MCA). These recommended changes are clean up in nature. Contact person for this bill is Janice Frankino Doggett (Chief Counsel for Secretary of State) Lisa Thompson (notary) and Michael O'Brien (intern) 444-4402.

HOUSE OF REPRESENTATIVE
ROLL CALL

STATE ADMINISTATION COMMITTEE

DATE_____

NAME	PRESENT	ABSENT	EXCUSED
REP. ALLAN WALTERS, CHAIRMAN	X		
REP. DEBBY BARRETT, V.C. MAJORITY	X		
REP. TOM DELL, V.C. MINORITY	X		
REP. DOUG MOOD			X
REP. FRANK SMITH	X		
REP. DEE BROWN	X		
REP. MICHELLE LEE	X		
REP. LARRY LEHMAN	X		
REP. RALPH LENHART	X		
REP. ALAN OLSON	X		
REP. NORMA BIXBY	X		
REP .RICK RIPLEY	X		
REP. CLARICE SCHRUMF	X		
REP. HOLLY RASER	X		
REP. GAY ANN MASOLO	X		
REP. HAL JACOBSON	X		
REP. DON HEDGES	X		
REP. LARRY JENT	X		

MONTANA HOUSE OF REPRESENTATIVES
VISITORS REGISTER
HOUSE STATE ADMINISTARTION COMMITTEE

DATE 2-6-01 Tuesday

BILL NO. HB 443 SPONSOR(S) Clancy

TYPE
PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)

PLEASE PRINT

PLEASE CIRCLE	NAME	ADDRESS	REPRESENTING
P O I	Belinda Footglut	P.O. Box 89 Ramsay, MT	MNA, NNA, ABON Notary Assoc.
P O I	Elaine Graveley		Sec of State
P O I	Russell T Gowen	375 Gretton Road	Montana Notary Assoc.
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Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony

S:\HOUSE STATE ADMIN FORMS\visitor register.frm

EXECUTIVE ACTION ON SJR 5

{Tape : 2; Side : B; Approx. Time Counter : 12.2}

Motion/Vote: **REP. MASOLO** moved that **SJR 5 BE CONCURRED IN. Motion carried unanimously. 18-0**

EXECUTIVE ACTION ON HB 443

{Tape : 2; Side : B; Approx. Time Counter : 13.5}

Motion: **REP. OLSON** moved that **HB 443 DO PASS.**

Motion/Vote: **REP. BROWN** moved that **HB 443 BE AMENDED. EXHIBIT(sth32a06) Motion carried unanimously. 18-0**

Motion: **REP. HEDGES** moved that **HB 443 DO PASS AS AMENDED.**

Substitute Motion: **REP. JENT** made a substitute motion that **HB 443 BE AMENDED. EXHIBIT(sth32a07) Motion carried unanimously. 18-0**

Motion: **REP. MASOLO** moved that **HB 443 BE AMENDED. EXHIBIT(sth32a08)**

Discussion:

REPRESENTATIVE MASOLO said she would like to leave the fees the way they are. If they have to travel they can charge travel time and if they need to charge more they can. She feels it should be left up to the individual.

REPRESENTATIVE RASER asked if this amendment passes, would it be striking the whole entire section addressing the fees.

REPRESENTATIVE JENT replied that was correct.

REPRESENTATIVE OLSON asked if they took out the cost for mileage would they still be able to charge mileage since it would not be listed on the bill. **REPRESENTATIVE MASOLO** replied they are currently doing it now if they have to travel they charge mileage. **SHERI HEFFELFINGER** clarified it was her understanding that they would only be able to charge what is maximum in the statute now and if it covered their expenses it did and if it didn't then it didn't. That is why the dollar fees were a concern.

REPRESENTATIVE JENT said he does not have a problem with the notaries charging $5.00 to notarize something because of the liability and bond expense.

REPRESENTATIVE RIPLEY stated if they strike section 9, it would be taking away the benefit of the notary to charge mileage.

REPRESENTATIVE MASOLO said it was her understanding they could charge mileage if they needed to and does not feel there should be a maximum dollar amount set on it. The individual should decide on the fee of mileage and to notarize.

REPRESENTATIVE LEE asked if they strike section 9, would they get into a law suit because individuals are charging different rates.

REPRESENTATIVE MASOLO replied that is the way it is being done now. Some charge and some don't.

REPRESENTATIVE DELL stated if it's not broke, don't fix it. He does not feel notaries notarize to make money. The notaries he knows do not charge. Most people do it as s service they provide, not as a money making thing. He will not vote for the bill unless this section comes out.

REPRESENTATIVE OLSON feels they need to have the mileage wording in the bill. They don't have to charge for mileage, but they need to have the option to if needed.

REPRESENTATIVE HEDGES said he is going to oppose the amendment to reduce the cost.

REPRESENTATIVE RIPLEY said these are the maximum fees and does not mean they need to charge at all, but would still be entitled to mileage. He is going to oppose the amendment.

Motion/Vote: **REP. MASOLO** moved that **HB 443 BE AMENDED. Motion failed 3-15 with Dell, Lenhart, and Masolo voting aye.**

Motion/Vote: **REP. HEDGES** moved that **HB 443 DO PASS AS AMENDED. Motion carried 16-2 with Dell and Masolo voting no.**

EXECUTIVE ACTION ON HB 239

{Tape : 3; Side : A; Approx. Time Counter : 10.3}

Motion: **REP. RIPLEY** moved that **HB 239 DO PASS.**

EXHIBIT 6
DATE 2/8/01
HB 443

Amendments to House Bill No. 443
1st Reading Copy

Requested by Representative Gilda Clancy

For the House State Administration Committee

Prepared by David Niss
February 6, 2001 (7:34AM)

1. Page 7, following line 22.
Page 8, following lines 3, 14, and 24
Page 9, following line 6
Insert: "_____
(Residing at)"

- END -

EXHIBIT 7
DATE 2/8/01
HB 443

Amendments to House Bill No. 443
1st Reading Copy

Requested by Representative Gilda Clancy

For the House State Administration Committee

Prepared by Sheri Heffelfinger
February 7, 2001 (1:04PM)

1. Page 5, line 12.
Strike: "$7.50"
Insert: "$3.50"

- END -

EXHIBIT 8
DATE 2/8/01
HB 443

Amendments to House Bill No. 443
1st Reading Copy

Requested by Representative Gay Ann Masolo

For the House State Administration Committee

Prepared by Sheri Heffelfinger
February 6, 2001 (2:30PM)

1. Title, page 1, line 16 through line 18.
Strike: "CLARIFYING" on line 16 through "EXPENSES;" on line 18

2. Title, page 1, line 19.
Strike: "1-5-418,"

3. Page 5, line 9 through line 20.
Strike: section 9 in its entirety
Renumber: subsequent sections

- END -

HOUSE OF REPRESENTATIVE
ROLL CALL

STATE ADMINISTATION COMMITTEE

DATE 2/8/01

NAME	PRESENT	ABSENT	EXCUSED
REP. ALLAN WALTERS, CHAIRMAN	X		
REP. DEBBY BARRETT, V.C. MAJORITY	X		
REP. TOM DELL, V.C. MINORITY	X		
REP. DOUG MOOD			X
REP. FRANK SMITH	X		
REP. DEE BROWN	X		
REP. MICHELLE LEE	X		
REP. LARRY LEHMAN	X		
REP. RALPH LENHART	X		
REP. ALAN OLSON	X		
REP. NORMA BIXBY	X		
REP .RICK RIPLEY	X		
REP. CLARICE SCHRUMF	X		
REP. HOLLY RASER	X		
REP. GAY ANN MASOLO	X		
REP. HAL JACOBSON	X		
REP. DON HEDGES	X		
REP. LARRY JENT	X		

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

STATE ADMINISTRATION COMMITTEE

DATE 2/8/01 Bill NO. HB443 NUMBER ##

MOTION: to do pass amendment made by Rep Masolo

Name	AYE	NO
REP. ALLAN WALTERS, CHAIRMAN		X
REP. DEBBY BARRETT, V.C. MAJORITY		X
REP. TOM DELL, V.C. MINORITY	X	
REP. DOUG MOOD		X
REP. FRANK SMITH		X
REP. DEE BROWN		X
REP. MICHELLE LEE		X
REP. LARRY LEHMAN		X
REP. RALPH LENHART	X	
REP. ALAN OLSON		X
REP. NORMA BIXBY		X
REP .RICK RIPLEY		X
REP. CLARICE SCHRUMF		X
REP. HOLLY RASER		X
REP. GAY ANN MASOLO	X	
REP. HAL JACOBSON		X
REP. DON HEDGES		X
REP. LARRY JENT		X

3-15.
Failed

HOUSE STANDING COMMITTEE REPORT

Mr. Speaker:

We, your committee on **State Administration** report that **House Bill 443** (first reading copy - white) **do pass as amended**.

Signed: Allan Walters
Representative Allan Walters, Chair

And, that such amendments read:

1. Page 5, line 12.
Strike: "$7.50"
Insert: "$3.50"

2. Page 7, following line 22.
Page 8, following lines 3, 14, and 24
Page 9, following line 6
Insert: "_____
(Residing at)"

- END -

Committee Vote:
Yes 16, No 2.

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MINUTES

MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DON HARGROVE**, on March 7, 2001 at 10:00 A.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Don Hargrove, Chairman (R)
Sen. John C. Bohlinger, Vice Chairman (R)
Sen. Edward Butcher (R)
Sen. Pete Ekegren (R)
Sen. Jim Elliott (D)
Sen. Eve Franklin (D)
Sen. Fred Thomas (R)
Sen. Ken Toole (D)

Members Excused: None.

Members Absent: None.

Staff Present: Lynette Brown, Committee Secretary
David Niss, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 443, HJ 15, HB 90, 2/23/2001
Executive Action: HJ 15, HB 443

{Tape : 1; Side : A; Approx. Time Counter : 0}

HEARING ON HB 443

Sponsor: REP. GILDA CLANCY, HD 51, Helena

Proponents: Janice Doggett, Chief Legal Council of the Secretary of State

Don Coburn, representing himself
Belinda Fargher, National Notary Association and Montana Notary Association
Russell T. Gowen, Montana Land Title Association
June Capps, Montana Notary Association

Opponents: **None**

Opening Statement by Sponsor:

REP. GILDA CLANCY, HD 51, Helena, **EXHIBIT(sts52a01)** explained the revision of notary laws in this bill.

Proponents' Testimony:

Janice Doggett, Chief Legal Council of the Secretary of State, said her office put this bill together at the request of the notaries to make necessary changes. She added that the fee stated in the bill would remain $3.50.

Don Coburn, representing himself, strongly supported this bill. He stated that he had been involved in legislation concerning notaries in the past and felt the changes recommended in this bill were important.

Belinda Fargher, National Notary Association and Montana Notary Association, told the committee this bill would make terminology more concise. She added that the increase in fees and the mileage reimbursement would help to cover supplies and expenses.

Russell T. Gowen, Montana Land Title Association, stated this bill would clarify what notaries could and could not do.

June Capps, Montana Notary Association, supported this bill.

Opponents' Testimony: **None**

Questions from Committee Members and Responses:

SEN. PETE Ekegren asked **Janice Doggett** what was meant by the reasons for charging fees. **Janice Doggett** responded that if the fee was not otherwise specified, then the charge remained at $3.50. She added that the notaries could also charge a mileage fee which would be the same rate as state business.

Closing by Sponsor:

REP. GILDA CLANCY, HD 51, closed HB 443.

HEARING ON HJ 15

Sponsor: REP. BOB LAWSON, HD 80, Whitefish

Proponents: Jane Karas, Flathead Valley Community College

Opponents: None

Opening Statement by Sponsor:

REP. BOB LAWSON, HD 80, Whitefish, told the committee this resolution urged a study of community college laws. **REP. LAWSON** stated the goals in this legislation were: (1) to develop an understanding of the origins of state laws affecting community colleges and how the original intent of the laws may no longer be relevant or consistent, (2) work with individuals who are knowledgeable about and experienced in the practical, legal, financial, educational, and related issues confronting community colleges, and (3) to develop a set of recommendations for Montana's community colleges that will guide these colleges into the 21st century and beyond. He added that community colleges fill a different need in a community than high schools and elementary schools.

Proponents' Testimony:

Jane Karas, Flathead Valley Community College, reiterated that community colleges fulfill different needs in a community than high schools and elementary school districts. She added that community colleges provide: (1)two-year, post-secondary training and occupational degrees, (2) customized training responsive to the needs of business and industry, and (3) opportunities to individuals placed in the community because of work or family, (4) re-training for dislocated workers, (5) entrance into partnerships with local communities, business, and industry as well as local elementary and high school districts. **Ms. Karas** said that under current law are both the elementary and high school district provisions as well as those in higher education. She said that independent audits of community colleges had identified issues of clarification needs because of the current language of the law. **Jane Karas** stated one of the issues identified was the notice of final budget meetings because

(1)

SEN. T- ST T- ADMIN.
EXHIBIT NO. 1
DATE 3-7-01
BILL NO. HB443

MEMORANDUM

Testimony on HB 443

Sponsor Representative Gilda Clancy

The United State Supreme Court held that states cannot require notaries to be citizens of the United States. This is clarified in the first section of this bill. Section 2 clarifies that a person may not have more than one Montana notary public commission in effect at one time. Section 3 provides that the county attorney may prosecute a notary for a violation of notary law. Section 4 increases the notary bond from $5,000.00 to $10,000.00. This section also clarifies that the surety bond and the notary commission must be the same and clarifies that all documents are to be completed and submitted to the SOS office within 30 days before or by the effective date of the surety bond. Section 5 allows the SOS to charge a fee for amending a commission. Section 6 requires a notary to file his or her business as well as residential address; if a notary changes his/her name they shall file their signature as well as evidence that they their the notary's surety company of the change. Section 7 clarifies that notaries are not obligated to take depositions if they are not knowledgeable of the applicable legal requirements it also prohibits a notary from having an interest in which the notary could directly benefit from a transaction.

This bill increases the fees that notaries can (but do not have to) charge to notarize documents from $1.00 to $5.00. For additional signatures, the fee may be increased from .50 to $1.00. This bill clarifies that notaries may charge mileage and establishes the maximum fee as the state rate. At the request of the clerks and recorders this bill also clarifies that the short form example still requires commissioned notaries to provide all of the information set forth in current law (amending Section 1-5-610 MCA). The contact people for this bill are Janice Frankino Doggett (chief legal counsel) Elaine Graveley (deputy of elections and notaries) and Lisa Thompson (notary) at the Secretary of States Office.

DATE 3-7-01

SENATE COMMITTEE ON State Administration

BILLS BEING HEARD TODAY: HB 443, HJ 15, HB 90

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Don Coburn	227-8629	Self	HB443	X	
Todd Boucher	841-2368	Department of Commerce	HB 90		
Chris Hahn	841-2350	Commerce	HB 90		
Belinda Fargher	782-3123	MDA/MDA	HB 443	X	
Carol Rowe	835-3221	MNA	#443	X	
June Capps	282-5720	MNA	#443	X	
Tim Lloyd	841-2558	Commerce	HB 90		
JOE BURTELL	652-7697	BURTELL FIRE PROT.	HB90	X	
Robert Throssell	442-0230	MT Technical Council	HB90		✓
Robert Foster	442-3050	Consulting Engineers	HB90		✓
Rick Ziegler	443-1160	Consult's Engrs Council	HB90		✓
James B. Brown	443-2340	C-W-G Architects	HB90		✓
Russell T Gowen	442-5080	MT Land Title Assoc	HB443	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 3-7-01

SENATE COMMITTEE ON State Administration

BILLS BEING HEARD TODAY: HB 443, HJ15, HB90

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Elaine Grandy	5376	SOS	HB 443	✓	
Janice J. Doggett	5375	SOS	HB 443	✓	
BRYAN J KENDRICK	449 2358	SELF	HB90	✓	
Fritz Zettel	447-8497	City of Helena Fire Dept.	HB90	✓	
Jane Karas	756-3894	Flathead Valley Community College	HJ15	✓	
Pat Clinch	431-6640	MT State Fire Fighters	HB 90	✓	
James Thiriot	587-8237	Living Industries		✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

EXECUTIVE ACTION ON HB 443

Motion/Vote: **SEN. HARGROVE** moved that **HB 443 BE CONCURRED IN.** **Motion carried unanimously.**

SENATE STANDING COMMITTEE REPORT

March 7, 2001

Mr. President:

We, your committee on **State Administration** recommend that **House Bill 443** (third reading copy - blue) **be concurred in.**

Signed: *Senator Don Hargrove, Chair*

To be carried by Senator Jim Elliott

- END -

Committee Vote:
Yes 8, No 0.

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MONTANA SENATE
2001 LEGISLATURE
STATE ADMINISTRATION COMMITTEE

ROLL CALL DATE 3-7-01

NAME	PRESENT	ABSENT	EXCUSED
SEN. DON HARGROVE, CHAIRMAN	✓		
SEN. JOHN BOHLINGER, VICE CHAIRMAN	✓		
SEN. ED BUTCHER	✓		
SEN. PETE EKEGREN	✓		
SEN. JIM ELLIOTT	✓		
SEN. EVE FRANKLIN	✓		
SEN. FRED THOMAS	✓		DAF
SEN. KEN TOOLE	✓		